

Application Serial No. 10/019,894
Attorney Docket No. 10191/2142
Reply to Office Action dated September 30, 2004

REMARKS

Claims 6 to 10 are now pending.

Applicant respectfully requests reconsideration of the present application in view of this response.

It is respectfully requested that the Examiner acknowledge whether the drawings are accepted, and also acknowledge whether the foreign priority claim and the receipt of the certified copies of the priority documents, as acknowledged by the March 19, 2002 Notification paper.

With respect to paragraph two (2) of the Office Action, claims 6 to 10 were rejected under 35 U.S.C. § 102(b) as unpatentable over Drury et al., U.S. Published Patent Application No. 2004/0104842. With respect to paragraph four (4) of the Office Action, claims 6 to 10 were rejected under 35 U.S.C. § 102(b) as unpatentable over Knockeart et al., U.S. Published Patent Application No. 2004/0066330 (The Knockeart reference is not prior art under 102(b)).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 6 includes the features of “determining a route in the on-board vehicle navigation system in a vehicle” such that “only delta information representing required necessary deviations from a previously determined route for driving an alternative section of the route is transmitted from the control center to the vehicle navigation system.”

Claim 9 includes the feature of a “vehicle navigation system for use in a vehicle”, including “a determining arrangement to determine a route in the vehicle navigation system” and “a transmitting arrangement to transmit information from a control center to the vehicle navigation system for use in providing optimized route planning, wherein only delta information representing required necessary deviations from a previously determined route for driving an alternative section of the route is transmitted from the control center to the vehicle navigation system.”

As to the rejections of claims 6 and 9, neither Drury nor Knockeart in any way identically discloses (or even suggests) that “only delta information representing required necessary deviations from a previously determined route for driving an alternative section of the route is transmitted from the control center to the vehicle navigation system” as provided for in the context of claims 6 and 9. In fact, Drury states that a “server system sends the planned route, the spot map, and the GPS correction data to the in-vehicle system.” (See Drury, page 11, prgh. 163). The fact that additional information beyond the delta information is provided is clearly evidenced in the statement that the spot map constitutes a detailed map around the initial location. (See Drury, page 5, prgh. 75). Clearly, such detailed spot map includes more information than the delta information which represents required necessary deviations from a previously determined route. With regard to the Knockeart reference, it similarly states that a server downloads to an in-vehicle system both a planned route and a detailed spot map. (See Knockeart, page 6, prghs. 90 to 96).

Thus, neither of the Drury and Knockeart identically disclose (or even suggest) limiting the transmission of route data to transmitting only difference data (delta information), as provided for in the context of claims 6 and 9. As explained, this distinction is significant, in that the claimed subject matter provides for encapsulating differences from a previously determined route using a *relatively small amount of data*, such as can easily be provided by wireless connectivity between the vehicle and the control center during most operating conditions.

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It is therefore submitted that both claims 6 and 9 are allowable over these references.

Claim 7 depends on claim 6, and is therefore allowable at least for the same reasons as claim 6.

Claim 8 includes the feature of “distributing the motor vehicle traffic flow among a plurality of detour segments in a controlled manner when there is a traffic problem and a plurality of feasible detour routes are available.” Claim 10 includes the feature of “distributing the motor vehicle traffic flow among a plurality of detour segments in a controlled manner when there is a traffic problem and a plurality of feasible detour routes are available.”

As to the rejections of claims 8 and 10, contrary to the assertions in the Office Action, neither Drury nor Knockeart in any way identically discloses (or even suggests) distributing the motor vehicle traffic flow among a plurality of detour segments when there is a traffic problem and a plurality of feasible detour routes are available. The cited section of the Drury reference (prghs. 179 and 180) merely indicates that traffic related data may be collected by a plurality of vehicles. Through this process, Drury suggests only that traffic information may be collated over time in order to assign “average speeds” for certain sections of a route, which then may be used in an optimization algorithm. See Drury, page 18, prghs. 304 to 307. Likewise, Knockeart also merely refers to collating a traffic information database and determines average speeds for certain sections of a route (links). It is therefore submitted that the operations referred to in the Drury and Knockeart references refer to obtaining historical data to determine the average amount of traffic on certain route segments, whereas the claimed subject matter is to actively distributing motor vehicle traffic flow among a plurality of detour segments in a controlled manner when there is a traffic problem, i.e., based on a real time traffic condition, which may be different from the average traffic at that segment, as determined over time.

It is therefore submitted that both claims 8 and 10 are allowable over these references.

In summary, it is respectfully submitted that claims 6 to 10 are allowable.

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CONCLUSION

In view of the foregoing, it is believed that the rejections have been obviated, and that claims 6 to 10 are allowable. It is therefore respectfully requested that the rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,

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